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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/594,524	06/14/2000	Carl Bader	ENSQ-0204	7704

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EXAMINER
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FAULK, DEVONA E

ART UNIT	PAPER NUMBER
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2644

DATE MAILED: 02/20/2004

7

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/594,524

Applicant(s)

BADER ET AL.

Examiner

Devona E. Faulk

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14, 20-39 and 45-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 5-7, 20-25, 45 and 52 is/are rejected.
- 7) ☒ Claim(s) 2-4, 9-12, 14, 22 and 26-29 is/are objected to.
- 8) ☒ Claim(s) 13, 15-19, 40-44, 46-51 and 53 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Applicant's election with traverse of the species according to Figure 1 and claims 1-12, 14,20-39,45 and 52 in Paper No. 6 is acknowledged. The traversal is on the ground(s) that claim 18 is generic in regard to all the embodiments disclosed and that the scope of the claims, other than claim 18, are not limited by the scope of claim 18. This is not found persuasive because the species would require the examiner would have to do additional searching in other search areas..

The requirement is still deemed proper and is therefore made FINAL.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. **Claims 20-25** are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1,3,4,5 of U.S. Patent No.6,491,533.

Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 20-25 claim a dual configuration audio system with the same features as the dual configuration sound card system of claims 1,5. Claim 20-25 are overall broader than claims 1,5

Art Unit: 2644

and thus it would have been obvious that anything that infringed on the narrower claims 1,5 would infringe on the broader claims 20-25 .

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Claim Rejections - 35 USC § 112***

4. **Claims 1,3,5,6 ,7, 45, and 52** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims, the phrase "optionally including a secondary connector" in claims 1 and 45, "optional second connector" in claim 5, and "optionally coupling a secondary connector" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Anything following optionally and anything referring to the secondary connector circuit has not been examined by the examiner, because optionally is interpreted as meaning that what follows does not have to be present.

It is not clear to the examiner what is and what is not part of the invention. To be clear please remove the term optionally from all relevant claims.

### ***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an

Art Unit: 2644

international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. **Claim 1** is rejected under 35 U.S.C. 102(e) as being anticipated by Mizukami et al. (U.S. 6,069,960).

Regarding **claim 1**, Mizukami discloses a connector device comprising a jack (J) having contacts, a-g, which reads on “connector header”; a line output audio amplifier (2) which reads on the “primary connector”. Mizukami further teaches that the left amplifier (2L) of audio amplifier (2) has an output terminal connected to the contact (a) of jack (J) (column 4, lines 55-62) which reads on “a second contact electrically coupled to said primary connector”; the right amplifier (1R) of the headphone audio amplifier (1) has a terminal connected to contact (b) of the jack (J) (column 4, lines 55-62 which reads on “a first contact electrically coupled to the sound source output”; and contacts (c and g) of jack (J) that are connected to ground (column 4, lines 38-39). Contacts a and b are not connected to ground which reads on “each one of said header first contact and said second contact being ungrounded”. Since the secondary contact is optional, it is interpreted that it does not have to be present.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2644

7. **Claims 5,6 and 45** are rejected under 35 U.S.C. 103(a) as being unpatentable over Mizukami et al. (U. S> Patent 6.069,960).

**Claim 5** claims the audio circuit of claim 1 wherein each one of said sound source output, said primary connector, and said connector header are mechanically affixed to a printed circuit board and the optional secondary connector is spaced apart from the printed circuit board, said secondary connector being connected to said header by a wiring harness. Although Mizukami does not specifically teach of the sound source output, primary connector and connector header being affixed to a printed circuit board, it is well known in the art to have connector, and contacts affixed to a board. As stated above apropos of claim 1, since the secondary contact is optional, it is interpreted that it does not have to be present. Thus it would have been obvious to one of ordinary skill in the art to have the named elements affixed to a printed circuit board as claimed for the benefit of making sure the electrical devices and connections are secure.

**Claim 6** claims the audio circuit of claim 5 where said primary connector is a local connector and said secondary connector is a remote connector. As stated above apropos of claim 1, since the secondary contact is optional, it is interpreted that it does not have to be present. It is interpreted that the primary connector is local since it was not claimed what the primary connector was local too. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to have the primary connector be local so it will be close to the sound source.

Regarding **claim 45**, Mizukami discloses a connector device comprising a jack (J) having contacts, a-g, which reads on "a switchless connector header"; a line output audio

Art Unit: 2644

amplifier (2) which reads on the "primary connector". Since the secondary contact is optional, it is interpreted that it does not have to be present. The audio signal device can be any stereo source inputted to terminals T-A1, T-AR, or T-V. Although Mizukami does not teach of the above named elements being disposed on a printed circuit board, it is well known in the art to have connection devices and contacts affixed to a printed circuit board. Thus it would have been obvious to one of ordinary skill in the art to dispose the named elements on a printed circuit board for the benefit of making sure the electrical devices and elements were secure.

### ***Claim Objections***

8. **Claims 2-4, 9-12, 14, 26-39** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 9-12 are objected to due to dependency upon a rejected claim but would be allowable if rewritten in another form.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devona E. Faulk whose telephone number is 703-305-4359. The examiner can normally be reached on 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W. Isen can be reached on 703-305-4386. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

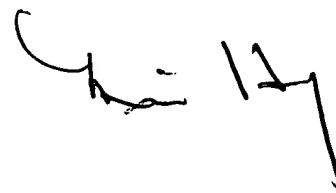
Application/Control Number: 09/594,524

Page 7

Art Unit: 2644

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

DF

A handwritten signature in black ink, appearing to read 'Ch Harvey', with a long vertical stroke extending downwards from the end.

MIN SUN CH HARVEY  
PRIMARY EXAMINER